

REMARKS

Status of the Claims

In the Office Action, claims 1-22 are noted as pending in the application. Claims 1-18 are allowed. Claims 19-22 claims stand rejected.

A. Rejection of Claims under 35 U.S.C. § 112 and claim objection s.

Claim 19 is amended to overcome the claim objections and the rejection under 35 U.S.C. § 112. Withdrawals of the objection and rejection are respectfully requested.

B. Rejection of Claims under 35 U.S.C. § 103(a).

Applicant respectfully submits that the subject matter of the claims patentably distinguish over the cited references. Under MPEP § 2142, for an examiner to establish a *prima facie* case of obviousness, “three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant’s disclosure.” If any of these three criteria are not met, the Examiner has not met the burden of establishing a *prima facie* case of obviousness, and the rejection should be withdrawn.

Furthermore, each dependent claim includes all of the limitations of the independent claim from which it depends. If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Applicant respectfully submits that the burden of establishing a *prima facie* case of obviousness has not been met.

C. The Claims are not Obvious over the Cited References

Starting on page 3 of the Office Action, claims 9-22 are rejected under 35 U.S.C. § 103 as being obvious over U.S. Patent Number 5,787,483 to Jam, et. al. (“Jam”) in view of U.S. patent number 5,734,720 to Salganicoff (“Salganicoff”). The reasons that the claims patentably distinguish over the reference are addressed below.

Claim 19 recites “... unscrambling the scrambled portion of the incoming packet with a stored key created by the first device and a stored key created by the second device, wherein the stored key created by the second key was received in the packet preceding the packet being unscrambled” Examiner stated that Jam does not disclose this element (Jam does not disclose that a communication is encrypted based on a key received in a previous communication). Office Action page 4. However, Examiner states that Salganicoff discloses this, citing col. 43, lines 35-65 for support for this proposition. Examiner states that it would have been obvious to apply the teaching of a one time session key discussed in Salganicoff into with Jam. Examiner refers to Salganicoff, col. 43, lines 60-65, stating that “the computational simplicity of the one-time session key allows it to be implementable in hardware for very fast encryption and decryption at the head end and as the set top multimedia terminal.”

A one-time session key is a key that is used for an entire session, and thus cannot

be a new key transmitted with each communication from one device to another. As discussed in a previous amendment, the claims in the present application claim a new key being generated and transmitted with the payload of each communication between one device and another. Examiner acknowledged this in paragraph 15 if the present Office Action. Therefore, since claims 1-18 are allowed based on this principle, so too should claims 19-22 be allowed.

Moreover, since Salganisoff discusses a one-time session key being used for all of the packets of a given session, claim 19 is not obvious over Jam in view of Salganisoff, because all of the elements of the claim are not found in the references, either alone or in combination. Furthermore, there is not a likelihood of success in combining the references because a one-time session key is a key that is used for multiple packets, or communication units of an entire session and claim 19 recites a new key being generated and used for each communication. Accordingly, claim 19 patentably distinguishes over the references. Withdrawal of the rejection is respectfully requested.

In addition, since every dependent claim contains all of the limitations of the base independent claim from which it depends, all of the dependent claims 20-22 also patentably distinguish over the cited references. Withdrawal of the rejection is respectfully requested.

SUMMARY

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance and that action is earnestly solicited.

If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment please contact the undersigned at the mailing address, telephone, facsimile number, or e-mail address indicated below.

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